

ZURICH AMERICAN INSURANCE COMPANY, ) 3:09-cv-00433-ECR-WGC  
)  
Plaintiff, )  
)  
vs. ) Order  
)  
SILVER SAGE INSURANCE BROKERS, )  
LTD., a Nevada corporation, JOHN )  
STOKER, individually, and as )  
President of Silver Sage Insurance )  
Brokers, Ltd., and JOAN PAGE, )  
individually, )  
)  
Defendants. )  
)

On September 9, 2011, judgment was entered against Silver Sage in the amount of \$133,542.80 plus pre-judgment interest. Judgment was not entered against John Stoker due to bankruptcy.

On September 23, 2011, Plaintiff filed a motion for attorney's fees (#50). Plaintiff requests attorney's fees against Defendant

1 Silver Sage due to Silver Sage's unreasonableness in forcing  
2 Plaintiff to initiate suit and to pursue it through judgment,  
3 despite having no meritorious defense. For example, Plaintiff  
4 points to depositions of persons most knowledgeable at Silver Sage  
5 in which Silver Sage admits that Plaintiff paid certain amounts that  
6 were obligations of Defendants. Despite these admissions, Plaintiff  
7 states that Silver Sage refused to pay the amounts due or to  
8 participate in any meaningful way in the lawsuit. Plaintiff filed a  
9 motion for summary judgment (#33) which was unopposed by Defendants,  
10 and eventually stipulated to dismiss the remaining claims against  
11 Silver Sage in order to obtain final judgment against it. Silver  
12 Sage has also failed to oppose the motion for attorney's fees (#50)  
13 in a timely manner.

14 In Hall v. Cole, the Supreme Court stated that:

15 [A]lthough the traditional American rule ordinarily  
16 disfavors the allowance of attorneys fees in the absence  
17 of statutory or contractual authorization, federal  
18 courts, in the exercise of their equitable powers, may  
19 award attorneys fees when the interests of justice so  
20 require. Indeed the power to award such fees is part of  
the authority of the chancellor to do equity in a  
particular situation, and federal courts do not hesitate  
to exercise this inherent equitable power whenever  
overriding considerations indicate the need for such a  
recovery.

21 Hall v. Cole, 412 U.S. 1, 4-5 (1973) (internal citations omitted)).

22 In Hall, the Supreme Court stated that attorney's fees may be  
23 awarded to a successful party when an opponent has acted "in bad  
24 faith, vexatiously, wantonly, or for oppressive reasons." Id. at 5  
25 (citation omitted).

26 In addition, this is a diversity case brought under Nevada law,  
27 and statutes allowing attorney's fees are substantive for Erie

1 purposes and will apply in diversity cases unless they conflict with  
2 a federal statute or procedural rule. Walsh v. Kelly, 203 F.R.D.  
3 597, 598 (D. Nev. 2001). Under Nev. Rev. Stat. § 18.010, a court  
4 may allow attorney's fees if it finds that a defense of the opposing  
5 party was brought or maintained without reasonable ground or to  
6 harass the prevailing party. Section 18.010 further provides that a  
7 court should liberally construe this paragraph in favor of awarding  
8 attorney's fees in all appropriate situations.

9 In this case, Defendants Silver Sage and John Stoker were  
10 served and appeared, and also participated in various stipulations.  
11 Both Silver Sage and Stoker gave depositions, and are represented by  
12 an attorney. Despite this, Defendants did not respond or oppose to  
13 the motion for summary judgment or the motion for attorney's fees.  
14 Stipulations were entered into after the motion for summary judgment  
15 was filed, but despite their presence and participation in various  
16 stipulations, defendants simply did not respond to any substantive  
17 motions. Therefore, we agree with Plaintiff that Defendants' actions  
18 in refusing to pay the amounts due while admitting fault, and  
19 refusing to participate in this action while essentially driving  
20 Plaintiff to file and litigate it, constitute maintaining a defense  
21 without reasonable ground.

22 Plaintiff seeks \$66,433.50 in attorney's fees. Local Rule 54-  
23 16 provides that a court may consider factors such as (a) results  
24 obtained and the amounts involved; (b) the time and labor required;  
25 © the novelty and difficulty of the questions involved; (d) the  
26 skill requisite; etc. Plaintiff provides an itemization and  
27 description of the work performed and fees incurred in the action,  
28

1 as well as a brief summary of the information required in Local Rule  
2 54-16. Plaintiff states that about three hundred and fourteen hours  
3 were spent commencing litigation, obtaining summary judgment, and  
4 attempting to collect on the debt. No opposition was timely filed,  
5 and Plaintiff's exhibits and affidavits support Plaintiff's request  
6 for fees. In light of the time expended and after consideration of  
7 the other factors in Local Rule 54-16, we find that the attorney's  
8 fees requested herein are reasonable.

9 **IT IS, THEREFORE, HEREBY ORDERED** that the motion for attorney's  
10 fees (#50) is **GRANTED** in the requested amount of \$66,433.50.

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13 DATED: August 8, 2012.

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15 UNITED STATES DISTRICT JUDGE  
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